

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

* * * * *

CLOEREN INCORPORATED,

Plaintiff,

vs.

Case No. 09-CV-215-SLC

COMPUTER FORENSIC SERVICES,
INC.,

Madison, Wisconsin
April 14, 2009
11:00 a.m.

Defendant.

* * * * *

STENOGRAPHIC TRANSCRIPT OF INJUNCTIVE HEARING
HELD BEFORE CHIEF JUDGE BARBARA B. CRABB

APPEARANCES:

For the Plaintiff: Reinhart Boerner Van Deuren s.c.
BY: KATIE D. TRISKA
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Milwaukee, Wisconsin 53202

For the Defendant: DeWitt, Ross & Stevens, S.C.
BY: ANTHONY R. VARDA
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CHERYL A. SEEMAN, RMR, CRR
Official Court Reporter
United States District Court
120 North Henry Street, Room 520
Madison, Wisconsin 53703
1-608-255-3821

1 THE CLERK: Case No. 09-CV-215, *Cloeren*
2 *Incorporated v. Computer Forensic Services,*
3 *Incorporated*, called for an injunctive hearing. May
4 we have the appearances, please?

5 MS. TRISKA: Katie Triska from Reinhart,
6 Boerner and Van Deuren on behalf of the plaintiff,
7 Cloeren Incorporated.

8 THE COURT: Thank you.

9 MR. VARDA: Anthony Varda of DeWitt, Ross &
10 Stevens, Madison, appearing on behalf of Computer
11 Forensic Services, Inc.

12 THE COURT: Thank you. And, Ms. Triska,
13 first of all, do you know anything about the bond?

14 MS. TRISKA: I sent an e-mail to counsel at
15 Frederickson and Byron, who is representing EDI and
16 Oliver, around 9:30 this morning and asked for an
17 update. As of that time, they had not posted the bond
18 and I asked to be updated if they did post it, and I
19 have not received any additional communications.

20 MR. VARDA: Your Honor, we contacted them
21 yesterday and they bluntly told us that they wouldn't
22 tell us whether they are going to file it or not.

23 THE COURT: And are you talking about the law
24 firm or EDI?

25 MR. VARDA: The law firm. I think they are

1 waiting to see what the outcome is here to see if they
2 can get by without posting a bond.

3 THE COURT: Well, they are in big trouble.
4 But I think, Mr. Varda, we do have a jurisdictional
5 problem here. I don't know any way that I can
6 exercise any jurisdiction over either the law firm or
7 CFS. If Cloeren -- is that how you pronounce it?

8 MR. VARDA: Cloeren. I think that sounds
9 right.

10 MS. TRISKA: Cloeren.

11 THE COURT: -- if Cloeren were a Wisconsin
12 resident, it might be the recipient of an injury in
13 this state, but it's not even a resident. As I
14 understand it, it's in Texas.

15 MS. TRISKA: That's correct, Your Honor.

16 THE COURT: Ms. Triska, do you have any idea
17 how I could exercise jurisdiction over CFS?

18 MS. TRISKA: Sure. We believe, in this case,
19 there is specific jurisdiction based on four factors.
20 One, CFS accepted an engagement for an action
21 proceeding in the Western District of Wisconsin. The
22 hard drives that were analyzed came from the Western
23 District of Wisconsin, specifically EDI located in
24 Chippewa Falls. CFS was subject to a protective order
25 that was entered in the Western District of Wisconsin.

1 And interestingly enough, prior to EDI's engagement of
2 CFS, Reinhart engaged CFS for services in that same
3 action.

4 THE COURT: But paid its bill?

5 MS. TRISKA: Correct. And in addition, Your
6 Honor, if we had an opportunity for a little
7 discovery, we believe that general jurisdiction would
8 exist as well. I personally know of a matter before
9 the Milwaukee County Circuit Court in which CFS is
10 engaged as the expert witness.

11 In addition, CFS's website is an interactive
12 website which courts have found before would render
13 the company subject to jurisdiction on that basis
14 alone. If you go to their website, there is links to
15 click for additional information, services that they
16 provide.

17 And I would be happy to also provide the Court
18 with the engagement agreement Reinhart entered into
19 with CFS in connection with the action proceeding in
20 the Western District of Wisconsin.

21 THE COURT: So you are saying because CFS was
22 doing a forensic examination for a lawsuit in
23 Wisconsin for EDI?

24 MS. TRISKA: Correct. The hard drives that
25 are -- a portion of the hard drives at issue here came

1 from EDI, which is located in Wisconsin.

2 THE COURT: Anything else?

3 MS. TRISKA: That's it for now, Your Honor.

4 But again, if we had time for additional discovery, we
5 believe we would be able to establish general
6 jurisdiction in addition to specific jurisdiction.

7 THE COURT: You engaged, "you" being
8 Reinhart, engaged CFS in this lawsuit?

9 MS. TRISKA: In the action that was pending
10 before Judge Crocker, correct.

11 THE COURT: And it gave you some report on
12 the materials it looked at?

13 MS. TRISKA: For the purposes of our
14 engagement, we had asked them to make images of
15 certain hard drives and so that was the extent of
16 their engagement. A few months later then, or maybe
17 it was just a month later, EDI engaged them,
18 unbeknownst to us. I don't know that they have a
19 conflict system, but that's how the timeline of events
20 occurred.

21 THE COURT: So what you asked them to do is
22 essentially what EDI asked them to do, but you were
23 asking them to look at EDI hard drives, I assume?

24 MS. TRISKA: Reinhart engaged them to copy
25 EDI hard drives and then we asked them to ship them to

1 another computer company in Texas where the analysis
2 would be done, but we engaged them for the limited
3 purpose of making what they call *forensic copies* that
4 has the metadata contained in it.

5 THE COURT: So you are saying that because of
6 that because of the work they are doing for a lawsuit
7 in Milwaukee, and the fact that the hardware came from
8 a Wisconsin citizen, EDI, that that means that they
9 are doing, actively doing, business in this state; is
10 that your position?

11 MS. TRISKA: Yes, that's my position, but
12 both that there is specific jurisdiction based on the
13 previous proceeding in the Western District of
14 Wisconsin, and I outlined the four or five substantial
15 contacts relating to that. And in addition, I believe
16 that there is also general jurisdiction based on their
17 work generally in Wisconsin, related and unrelated to
18 the *EDI-Cloeren* matter.

19 THE COURT: Mr. Varda.

20 MR. VARDA: Yes. I'm learning new things
21 here this morning that weren't in the paperwork filed.
22 My understanding was that if that was the argument
23 they wanted to make, it should have been in the
24 paperwork so I could at least have talked to my
25 clients about it.

1 However, from what little I heard here this
2 morning, the hard drives were sent to Minnesota. We
3 were not supposed to give them anything back out of
4 that. We weren't sending anything into Wisconsin.
5 The hard drives from that earlier case were sent to
6 Minnesota and we then, my client sitting in Minnesota,
7 sent something to Texas for them, still didn't come
8 into Wisconsin.

9 There is no claim that they were supposed to --
10 that they contractually agreed to come and testify in
11 Wisconsin and be subject to jurisdiction. They are
12 sitting up in Minneapolis primarily dealing with a
13 Minneapolis law firm in this case. What is at issue
14 here are the materials from the contract with the
15 Frederickson law firm, and that's it.

16 We have offered to remove the forensic copy, the
17 images, of the hard drives from Cloeren from the sale.
18 We have offered to do that.

19 THE COURT: And explain to me what that would
20 mean.

21 MR. VARDA: That means the images that we
22 created that can then be analyzed for forensic
23 purposes out of their hard drives, we have agreed to
24 take that out of the sale. We are not going to sell
25 those.

1 THE COURT: Okay. So all of the materials
2 that EDI wanted to produce will not be in the sale.
3 Are they also removed from the hard drive so that
4 somebody looking at the hard drive could no longer see
5 those images?

6 MR. VARDA: We are just going to give them a
7 hard drive back. They are hard drives. We will give
8 them back to them.

9 THE COURT: So what are you selling?

10 MR. VARDA: We are selling the images and
11 hard drives we received from Extrusion Dies
12 Industries, the other side of the lawsuit.

13 THE COURT: But weren't those from Cloeren?

14 MR. VARDA: Well, that's the question, was
15 there something on their hard drives that came from
16 Cloeren that was privileged or a trade secret, and
17 nobody knows. That was what the lawsuit was about,
18 but they settled the lawsuit.

19 But getting back to jurisdiction -- and frankly,
20 and venue, because we think it should be dismissed for
21 lack of venue here -- I mean, there is nothing
22 substantially related in the Western District. Our
23 work was completely outside of court, wasn't coming to
24 court. It's up in Minnesota. They never ventured
25 into Wisconsin to do anything. All the witnesses,

1 everything, is up in Minnesota.

2 THE COURT: They must have solicited some
3 business.

4 MR. VARDA: Well, they solicit generally,
5 like most people do, you know. Our law firm, for
6 example, has a website that will go anywhere. So,
7 yes, you do have that with the Internet, virtually any
8 company now does. But I don't think that completely
9 eliminates all notions of fundamental fairness in
10 where venue should be and jurisdiction.

11 This was work done exclusively in Minnesota. We
12 never received any protective order. Nobody served it
13 on us. They weren't even aware of the protective
14 order. I don't know if the protective order was
15 something simply stipulated by the parties and signed
16 by the court based on the stipulation or it was a
17 protective order that the court rendered a decision on
18 based on evidence that there was something to be
19 protected, two different categories of protective
20 orders.

21 THE COURT: We are kind of picky in this
22 court about making lawyers show that there is
23 something that needs protection. Now, I haven't
24 looked exactly at the one that was signed in the other
25 lawsuit, but we do send them back regularly, once a

1 week probably, saying "Please tell us -- you can't
2 just come in here and say you need a protective order.
3 You have to tell us why."

4 MR. VARDA: I wish the state court had the
5 same attitude. But anyway, I think there is a serious
6 problem with jurisdiction. I mean, they are from
7 Texas. You know, the tenuous connection here is that
8 the hard drive came from here, but they sent it to a
9 different state for work that was never even going to
10 come back to them, so we are not sending our work
11 product into Wisconsin in either of these cases. It's
12 not a contract for goods to be used in Wisconsin. Our
13 contract was with the Frederickson law firm and we
14 would have just turned it over to them.

15 THE COURT: Although I thought from what
16 Ms. Triska said that the earlier work, the forensic
17 images, were returned to Wisconsin.

18 MR. VARDA: No. They were sent to Texas.
19 What she said is they went to Texas for analysis.

20 MS. TRISKA: If I may clarify, in fact the
21 hard drives were sent to Reinhart for us to send to
22 Texas.

23 THE COURT: But not -- okay. This is a
24 strange case. It seems so bizarre to me that a
25 company granted -- it seems to have a very legitimate

1 claim against the law firm and EDI for not paying a
2 bill that it contractually agreed to pay, but the idea
3 that it thinks it can sell somebody else's private
4 data --

5 MR. VARDA: Well, apparently, and I'm not a
6 Minnesota lawyer, but apparently this is straight
7 down-the-book Uniform Commercial Code in Minnesota,
8 they can go sell it. You can see, however, that it is
9 also a strong leverage point to getting paid.

10 And of course the Frederickson firm could pay the
11 bill under protest and sue, claiming it was an
12 excessive bill, if they wanted to stop this. But
13 apparently they would rather -- what they did up there
14 was they brought a lawsuit on behalf of their clients,
15 representing their clients, asking for an injunction
16 and then they had to put the \$125,000 bond in to keep
17 it from being sold.

18 So I think the judge up there did rough justice
19 to get collateral, cash collateral, in lieu of this,
20 because this is the only collateral they had. It does
21 seem a bit strange, but --

22 THE COURT: You know, my understanding of the
23 Uniform Commercial Code is if I take a car in to Joe
24 Smith's Auto Repair; he does the repair, I don't pay
25 for it; he can keep the car.

1 MR. VARDA: He can sell the car if he follows
2 the procedure, which is how this got --

3 THE COURT: I didn't think that if I took my
4 neighbor's car in or the car I stole in that he could
5 sell it.

6 MR. VARDA: No. What's happening here -- you
7 are misconstruing what we are selling. We are not
8 selling -- we are not selling the hard drives and so
9 on. We are selling the images that we created. Our
10 work product is going to be sold.

11 THE COURT: But aren't those images -- and if
12 you were doing the work you were contracted to do,
13 those are images showing e-mails from Joe to Tom and
14 Sam to Sarah about what Mr. Oliver was doing and what
15 he knew and all these secrets that he knew.

16 MR. VARDA: Well, the Frederickson law firm
17 was his agent for that purpose. It would be as though
18 your neighbor contracted with you to take the car in
19 and you took the car in on behalf of the neighbor and
20 with the neighbor's permission and then you didn't pay
21 for it, and neither did the neighbor, and the mechanic
22 went out and sold it.

23 THE COURT: Yeah. But here, Frederickson,
24 first of all, blew it by not handing over the
25 protective order making sure that CFS was aware of the

1 order.

2 MR. VARDA: That's true.

3 THE COURT: But then what about the criminal
4 penalties that are lurking out there for what CFS
5 plans to do?

6 MR. VARDA: The fundamental problem here is
7 that no one has actually made a determination that any
8 theft of trade secrets or transfer of trade secrets
9 have occurred. I have been in a lot of lawsuits where
10 people claim things to be trade secrets and when you
11 get down to it, they simply aren't.

12 THE COURT: There is always the possibility.

13 MR. VARDA: There is a host of possibilities.
14 The interesting thing here is that in settling their
15 lawsuit between the parties, apparently they left,
16 whatever Extrusion Die Industries and Mr. Oliver
17 allegedly took, they left them in possession of that
18 material and their selling it apparently anticipates
19 they will just keep it.

20 I guess, because they settled, they don't want to
21 pay the expense of determining whether they actually
22 stole anything or not. We really don't know whether
23 anything got stolen or not at this point and they have
24 decided not to find out and that's how they settled
25 their lawsuit.

1 So that brings us all full circle around to this
2 was just the expert hired in Minneapolis to do some
3 work in Minneapolis that was supposed to be followed
4 up on elsewhere by other people and they are hauled in
5 to court both here and Minneapolis. There is an
6 injunction entered in Minneapolis.

7 But as I noted earlier, I think what's going on
8 is they are trying to see if they can get by without
9 posting the bond in Minneapolis. If this court
10 decides not to issue a temporary restraining order, I
11 have every confidence in the world that the
12 Frederickson firm will see it possible to actually
13 issue their bond, get their bond in.

14 We did suggest to Cloeren that we would be happy
15 to sell it to them, too, and they can settle this
16 between them. They haven't finished their final
17 settlement document as between the two of them and
18 they can resolve it as part of that, if they want.
19 But this is the only collateral we have and, you know,
20 apparently under Minnesota law, it's perfectly
21 possible to go and sell it. We don't know of any
22 trade secrets that are actually involved here.

23 So I don't think the sale is going to happen,
24 regardless either way of what this court does, but I
25 see serious problems in both jurisdiction and venue.

1 And the alternative -- the option on a venue question
2 would be to send it to Minneapolis so it can at least
3 be resolved in the same place where all witnesses are,
4 or dismissal. If there is no venue, then we can
5 dismiss here and then they can refile up in Minnesota.
6 I suppose they would have it filed almost immediately.

7 But as I said, we are pulling -- the materials
8 that they sent us are not at issue here, we are taking
9 that out, so I really don't understand how they have
10 standing to object to our selling what belongs to
11 Extrusion Die Industries without some evidence or
12 proof that it also contains their misappropriated
13 information or trade secrets. And at this point, we
14 don't know that it is. And if they could settle their
15 lawsuit without solving that question, I'm skeptical,
16 quite honestly.

17 MS. TRISKA: May I respond, Your Honor?

18 THE COURT: You may.

19 MS. TRISKA: Thank you. Attorney Varda
20 referenced that Cloeren's data won't be sold at sale.
21 The notice of sale, as it's currently drafted, still
22 includes the Cloeren hard drives. We have received
23 nothing in writing assuring us that the Cloeren hard
24 drives won't be sold.

25 Regardless of the Cloeren hard drives though, we

1 are still concerned about the EDI hard drives. Based
2 on the limited discovery we did in the other action,
3 we still have reason to believe that there is Cloeren
4 data on the EDI hard drives.

5 CFS was engaged to determine whether or not there
6 was Cloeren. They did about \$90,000 of work and so
7 CFS is probably in the best position to let us know
8 whether Cloeren data is on these EDI hard drives or
9 not. And to date, CFS has not been willing to
10 represent that there is no Cloeren data on the EDI
11 hard drives.

12 And then just two other comments, Your Honor:
13 Again, the website, by itself, is enough. Several
14 courts have recognized that just a website is enough
15 for general jurisdiction. If this court is still not
16 sure on the personal jurisdiction issue, I would
17 request additional time to engage in discovery because
18 I have no doubt that through additional discovery, we
19 would be able to establish general jurisdiction. But
20 regardless, I believe specific jurisdiction still
21 exists in this matter.

22 And then finally, with respect to venue, while it
23 may be that Minnesota is another option, there is no
24 requirement that we file in the best court so long as
25 it meets the requirements for venue, and we do in the

1 Western District.

2 MR. VARDA: Your Honor, I want to say in open
3 court, and binding upon my client, that we are not
4 going to sell Cloeren hard drives nor the image
5 prepared from them, period. And having said that in
6 open court, I believe it is binding and I have
7 assurance that they are not going to do that. All
8 they have to do is withdraw it at the time of sale.
9 They just cross it off the list.

10 THE COURT: Let me understand. The hard
11 drives will not be sold?

12 MR. VARDA: The hard drives from Cloeren will
13 not be sold. We also prepared an image of those hard
14 drives --

15 THE COURT: Okay.

16 MR. VARDA: -- so there are three points that
17 we have to take out. So everything we received from
18 them will not be sold. We will hang on to that out of
19 the sale.

20 THE COURT: So what's left?

21 MR. VARDA: It would be the images -- hard
22 drives of Extrusion Dies Industries, what they
23 provided for us. If they want to know the answer of
24 what's on those, if they want to know what's on those
25 drives, they can come and buy it at the sale, then

1 they will have an answer.

2 THE COURT: Wait. Now, I'm not that savvy
3 about what's what, but you are saying that nothing of
4 the hard drives that Cloeren produced to EDI goes to
5 CFS for forensic analysis, the forensic images that
6 CFS produced from the Cloeren hard drives, and then
7 the third thing --

8 MR. VARDA: Well, it's three because there
9 are two hard drives --

10 THE COURT: Oh.

11 MR. VARDA: -- so one, two and then the
12 image.

13 THE COURT: Okay. So you are saying that any
14 hard drives that were in Extrusion Dies' possession
15 that went to CFS for analysis --

16 MR. VARDA: Correct.

17 THE COURT: -- are not excluded from the
18 sale?

19 MR. VARDA: Are not excluded. Mr. Oliver and
20 Extrusion Dies provided us hard drives from which we
21 created these images, these forensic images. They
22 will be the exclusive subject of the sale. They are
23 the property of those two entities.

24 You know, it's kind of a chicken or the egg
25 situation. No one can prove whether anything got

1 taken until somebody pays the bill to get the
2 information, but nobody wants to pay the bill, but
3 they still want to argue that something got taken.
4 It's a strange --

5 THE COURT: In other words, Extrusion Dies'
6 hardware may have all kinds of Cloeren information if,
7 as Cloeren says, Mr. Oliver transferred it from one to
8 the other?

9 MR. VARDA: Correct. But Mr. Oliver could
10 just as well have had all of his grandchildren's
11 pictures on his computer at Cloeren and transferred
12 all of them, rather large files, over to his new
13 computer. That wouldn't be a trade secret of
14 Cloeren's. He could also have downloaded forms,
15 J-Tech files for catalogues and all sorts of other
16 stuff that he normally used in business that are taken
17 off a series of different websites and saved himself a
18 lot of time. He could have transferred those over and
19 that wouldn't be a trade secret.

20 Just because somebody transferred something -- I
21 just had to transfer a bunch of stuff between
22 computers because I had a crash -- that doesn't mean
23 that there is anything in the transfer. People do
24 that all the time.

25 So we are kind of back to the funny situation is

1 nobody wants to pay for it, but nobody wants -- the
2 only way you are going to know whether or not there is
3 anything on that computer is to pay us, but nobody
4 wants to do that, so we are in a very strange position
5 here.

6 I do believe that there is no venue here. We
7 were not -- even though their dispute is in the
8 Western District of Wisconsin, we didn't do anything.
9 What our dispute here with the materials and
10 everything that we have, no portion of that arose in
11 the Western District of Wisconsin. It has nothing to
12 do with the Western District of Wisconsin. It was all
13 in Minnesota. Stuff was sent to Minnesota. The
14 Frederickson law firm is in Minnesota. They hired us.
15 We have a contract with them.

16 That earlier contract, none of this relates to
17 anything done under that earlier contract. So nothing
18 in this particular dispute -- the sale is going
19 forward in Minneapolis. No portion of this cause of
20 action -- if we stole some trade secrets from what
21 they sent us, that happened in Minnesota.

22 Nothing happened here, so there is no venue, and
23 so you can either transfer it or dismiss it. And I
24 think the preference is dismissal because this is a
25 sophisticated group, they knew enough to bring it in

1 Minnesota, and they should have brought it in
2 Minnesota if they didn't want to run into a problem
3 with venue.

4 They have not -- you know, for purposes of this
5 motion, they were supposed to provide evidence
6 demonstrating jurisdiction and venue in the Western
7 District, and I don't think they have done that. We
8 have heard things here today, but we don't have an
9 affidavit, we don't have any support, nothing in the
10 paperwork.

11 So I think this is one that, you know, should be
12 dismissed for either lack of jurisdiction or venue.
13 And as I said before, I think this is a game of
14 chicken by the Frederickson law firm and I think we
15 will see what happens.

16 THE COURT: Withstand the poultry metaphor.

17 MR. VARDA: Yeah.

18 THE COURT: Ms. Triska, is there anything
19 more you would like to add?

20 MS. TRISKA: Yes, Your Honor. Just to try to
21 clarify, in addition to the EDI hard drive, there is
22 also Gary Oliver's personal hard drive. So regardless
23 of whether he misappropriated the trade secrets on
24 EDI's hard drives, there is still the potential for
25 them to be up on his personal hard drives. And again,

1 based on discovery that was done in the prior action,
2 we have reason to believe that.

3 Attorney Varda mentioned there is all these other
4 possibilities to explain why he was on
5 *transferlargefiles.com* websites, but there is still
6 the very real possibility that he transferred
7 Cloeren's trade secrets, and the risk to Cloeren is
8 significant.

9 Going forward with the sale of EDI's drives,
10 regardless of Cloeren's, there is still the very real
11 potential that going forward with the EDI's sale of
12 hard drives will put Cloeren's trade secrets at risk.

13 And if there is any additional evidence or
14 evidence that I mentioned today that wasn't in any of
15 my filings, I would be happy to supplement that as
16 soon as possible, within an hour, if that would assist
17 the Court with the jurisdictional question.

18 THE COURT: I think I'm prepared to rule. I
19 just don't think that there is jurisdiction in this
20 district and I don't think that venue would be proper
21 here either. CFS has done this work in Minnesota.
22 Minnesota courts are dealing with it. I don't think
23 that it's appropriate for this court to get into it
24 given the real questions about jurisdiction and venue,
25 which I think are pretty much in favor of CFS. It's

1 possible that the website would give this court
2 jurisdiction, but I'm queasy enough about it not to
3 adopt that viewpoint.

4 I think it probably is a game of chicken, that
5 this law firm does not want to pay this money. EDI
6 doesn't want to pay the money, now that it's settled
7 the lawsuit and it doesn't need the materials anymore.
8 But I think the law firm probably realizes that the
9 stakes were or are high enough that if it doesn't pay
10 this and get these materials out of there, it could
11 really expose itself to some serious expenses either
12 in a malpractice lawsuit or something else.

13 It's a very strange case and I don't know what
14 lesson to draw from it other than maybe people should
15 pay their bills. In this economy, that's not always
16 what's going to happen.

17 But I'm just not -- I would not be comfortable
18 exercising jurisdiction over CFS in this case and
19 issuing any kind of injunctive relief to the
20 plaintiff, Cloeren, so the motion is denied. And
21 Cloeren will get back its forensic images and its hard
22 drives?

23 MR. VARDA: Correct, Your Honor. The story
24 is even worse. Apparently they sent an associate out
25 to hire a forensic firm and it might not have reported

1 quite how expensive they said it was going to be.

2 THE COURT: I gathered that.

3 MR. VARDA: You can just see how this
4 happened.

5 THE COURT: But it's still of their agent.

6 MR. VARDA: Thank you, Your Honor.

7 MS. TRISKA: Thank you.

8 THE COURT: Thank you.

9 (Adjourned at 11:25 a.m.)

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1 I, CHERYL A. SEEMAN, Certified Realtime and
2 Merit Reporter, in and for the State of Wisconsin,
3 certify that the foregoing is a true and accurate
4 record of the proceedings held on the 14th day of
5 April, 2009, before the Honorable Barbara B. Crabb,
6 Chief Judge of the Western District of Wisconsin, in
7 my presence and reduced to writing in accordance with
8 my stenographic notes made at said time and place.
9 Dated this 21st day of July, 2009.

10
11
12
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15 _____ /s/

16 Cheryl A. Seeman, RMR, CRR
17 Federal Court Reporter
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